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7 UNITED STATES DISTRICT COURT  
8 NORTHERN DISTRICT OF CALIFORNIA  
9 OAKLAND DIVISION

10 UNITED STATES OF AMERICA, ) No. CR-10-00039 SBA  
11 Plaintiff, ) STIPULATED REQUEST TO CONTINUE  
12 v. ) HEARING DATE TO APRIL 13, 2010  
13 ) AND TO EXCLUDE TIME UNDER THE  
14 TOMMY ANDRE GATES, ) SPEEDY TRIAL ACT AND [PROPOSED]  
15 Defendant. ) ORDER  
16 \_\_\_\_\_) Hearing Date: March 2, 2010  
Time: 9:00 a.m.

17 The above-captioned matter is set on March 2, 2010 before this Court for a status  
18 hearing. The parties jointly request that the Court continue the matter to April 13, 2010 at 9:00  
19 a.m., and that the Court exclude time under the Speedy Trial Act, 18 U.S.C. §§ 3161(h)(7)(A)  
20 and (B)(iv), between the date of this stipulation and April 13, 2010.

21 On January 14, 2010, the Grand Jury charged Mr. Gates with possession with intent to  
22 distribute marijuana, in violation of 21 U.S.C. § 841(a)(1), possession of a firearm in furtherance  
23 of a drug trafficking crime, in violation of 18 U.S.C. § 924(c)(1)(A)(i), and felon in possession of  
24 a firearm, in violation of 18 U.S.C. § 922(g). For the most serious offense – the § 924(c) charge  
25 – Mr. Gates is subject to a mandatory minimum sentence of 5 years, and a statutory maximum of  
26 life imprisonment.

Stip. Req. To Continue Hearing Date and to  
Exclude Time, No. CR-10-0039 SBA

The current status of the case is that the parties are negotiating this matter and anticipate that there will be a negotiated disposition of the case. In the meantime, on January 28, 2010 and on February 8, 2010, the defense received discovery in this case and needs time to review and process this discovery. The defense also requires time to investigate the circumstances of the offense and to collect Mr. Gates' prior conviction records to prepare an estimate of his anticipated Guidelines range.

7 The requested continuance will allow the defense to complete its review of the discovery,  
8 to investigate the underlying facts of the case, and to obtain and review relevant criminal history  
9 records. For this reason, the parties agree that the failure to grant this continuance would  
10 unreasonably deny counsel for defendant the reasonable time necessary for effective preparation,  
11 taking into account the exercise of due diligence.

12 The parties further stipulate and agree that the ends of justice served by this continuance  
13 outweigh the best interest of the public and the defendant in a speedy trial. Accordingly, the  
14 parties agree that the period of time from the date of this Stipulation to April 13, 2010, should be  
15 excluded in accordance with the provisions of the Speedy Trial Act, 18 U.S.C. §§ 3161(h)(7)(A)  
16 and (B)(iv), for effective preparation of defense counsel, taking into account the exercise of due  
17 diligence.

19 DATED: February 23, 2010 \_\_\_\_\_ /S/  
20 SKYE DAVIS  
Assistant United States Attorney

21 DATED: February 23, 2010 \_\_\_\_\_ /S/  
22 ANGELA M. HANSEN  
Assistant Federal Public Defender

24 I hereby attest that I have on file all holograph signatures indicated by a "conformed" signature  
25 (/S/) within this e-filed document.

## ORDER

2       Based on the reasons provided in the stipulation of the parties above, the Court hereby  
3 FINDS:

4           1.     Given that the defense received discovery in this case on January 28, 2010 and on  
5 February 8, 2010, and given defense counsel's need to complete her review of the discovery and  
6 to discuss it with her client;

7           2. Given that the defense needs time to investigate the underlying facts of the case  
8 and to obtain relevant records to calculate defendant's sentencing Guidelines range:

9           3.     Given that these above-listed tasks are necessary to the defense preparation of the  
10 case and that the failure to grant the requested continuance would unreasonably deny counsel for  
11 defendant the reasonable time necessary for effective preparation, taking into account the  
12 exercise of due diligence;

13           4.     Given that the ends of justice served by this continuance outweigh the best  
14 interest of the public and the defendant in a speedy trial;

15       Based on these findings, IT IS HEREBY ORDERED that the STATUS date of March 2,  
16 2010, scheduled at 9:00 a.m., before the Honorable Saundra Brown Armstrong, is vacated and  
17 reset for April 13, 2010, at 9:00 a.m. It is FURTHER ORDERED that time is excluded pursuant  
18 to the Speedy Trial Act, 18 U.S.C. §§ 3161(h)(7)(A) and (B)(iv), from March 2, 2010 to April  
19 13, 2010.

21 || DATED:3/1/10

Saundra B Armstrong  
HON. SAUNDRA BROWN ARMSTRONG  
United States District Judge